

Wayson W. S. Wong, Esq.
Law Offices of Wayson Wong
142 Seaton Boulevard, Suite 203
Hagatña, Guam 96910
Telephone No.: (671) 475-7448
Facsimile No.: (671) 477-4455
Email Address: WaysonWong@aol.com

FILED
DISTRICT COURT OF GUAM

AUG 12 2005

MARY L.M. MORAN
CLERK OF COURT

Attorney for Plaintiff

IN THE DISTRICT COURT OF GUAM

TERRITORY OF GUAM

FLORENCIA Q. LEWIS,)	CIV. NO. 05-00026
)	
Plaintiff,)	(Federal Tort Claims Act)
)	
vs.)	FIRST AMENDED COMPLAINT
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	
)	

FIRST AMENDED COMPLAINT

Plaintiff Florencia Q. Lewis ("Mrs. Lewis"), by and through her attorney, Wayson W. S. Wong, Esq., of the Law Offices of Wayson Wong, A Professional Corporation, as claims for relief against defendant United States of America ("Government"), alleges as follows.

A. INTRODUCTION

1. This First Amended Complaint is filed pursuant to the provisions of the Federal Tort Claims Act against the Government for injuries and damages sustained by Mrs. Lewis as a result of medical malpractice and/or negligence at Tripler Army Medical Center ("Tripler").

ORIGINAL

2. In August 2002, Mrs. Lewis flew from Guam to Hawaii for treatment at Tripler for hypertension. While there, she was diagnosed as having right-sided renal artery stenosis. On August 12, 2002, she underwent a right renal artery angiogram; but because of complications, she underwent a left brachial artery access (in her upper left arm) for selective stent placement and angioplasty of her right renal artery. Because of additional problems and/or complications during and/or following such procedures, she sustained permanent injuries to the nerves in her left arm and hand, substantial pain and disability, emotional distress and loss of enjoyment of life. Essentially, Mrs. Lewis received treatment for a constricted artery to her kidney and ended up with a permanently substantially paralyzed left arm and hand.

3. All administrative remedies have been exhausted, and Mrs. Lewis now seeks damages from the Government in this case.

B. JURISDICTION

4. This action arises under the Federal Tort Claims Act, 28 U.S.C. § 1346(b), 2671 *et seq.*

5. Mrs. Lewis is a citizen of Guam and currently resides in Guam.

6. The injuries suffered by her occurred in Honolulu, Hawaii and in Guam.

C. PARTIES

7. At all times relevant, Mrs. Lewis has been a resident of Guam.

8. The Government is and should be a named defendant pursuant to and under the provisions of the Federal Tort Claims Act, 28 U.S.C. § 1346(b), 2671 *et seq.*

9. At all times relevant, the physicians and other health care providers or one or more of them who caused Mrs. Lewis to be injured and damaged through his, her or their act(s) and/or omission(s) was or were employed by the Government and acting in the course and scope of such employment.

D. EXHAUSTION OF ADMINISTRATIVE REMEDIES

10. On August 10, 2004, pursuant to the provisions of the Federal Tort Claims Act, 28 U.S.C. § 1346(b), 2671 *et seq.*, Mrs. Lewis filed claims for personal injury against the Government within the statutory period as required by law.

11. Since the Government's acknowledgment of receipt of Mrs. Lewis' filed claims on August 10, 2004, it has failed to take final administrative action on them consisting of either a written denial or final settlement of them.

12. Therefore, pursuant to the provisions of the Federal Tort Claims Act, 28 U.S.C. § 1346(b), 2671 *et seq.*, this suit is timely filed after expiration of the six-month statutory period allowed for the administrative review of Mrs. Lewis' claims.

13. All administrative procedures have been exhausted, and the First Amended Complaint is timely filed.

E. FIRST CLAIM FOR RELIEF

14. Mrs. Lewis realleges paragraphs 1 – 13 of this First Amended Complaint.

15. The physicians and other health care providers or one or more of them at Tripler were negligent with respect to his, her or their act(s) and/or omission(s) in August 2002 that caused Mrs. Lewis to sustain the permanent injuries to the nerves in her left arm and hand, including but not limited to deviating from the applicable standard(s) of care.

16. Such negligence has been a legal cause of Mrs. Lewis' permanent injuries to the nerves in her left arm and hand and her past, present and probable future related special damages and general damages for her substantial pain and disability, emotional distress and loss of enjoyment of life.

17. The Government is vicariously liable to Mrs. Lewis for her injuries and related damages.

F. SECOND CLAIM FOR RELIEF

18. Mrs. Lewis realleges paragraphs 1 – 13 and 15 – 16 of this First Amended Complaint.

19. The physicians and other health care providers or one or more of them at Tripler failed to obtain Mrs. Lewis' informed consent to the procedure(s) that caused her permanent injuries to the nerves in her left arm and hand.

20. A reasonable person in Mrs. Lewis' circumstances would not have consented to the proposed procedure(s) had the required information been given to her.

21. That failure to obtain her informed consent has been a legal cause of her injuries and related damages.

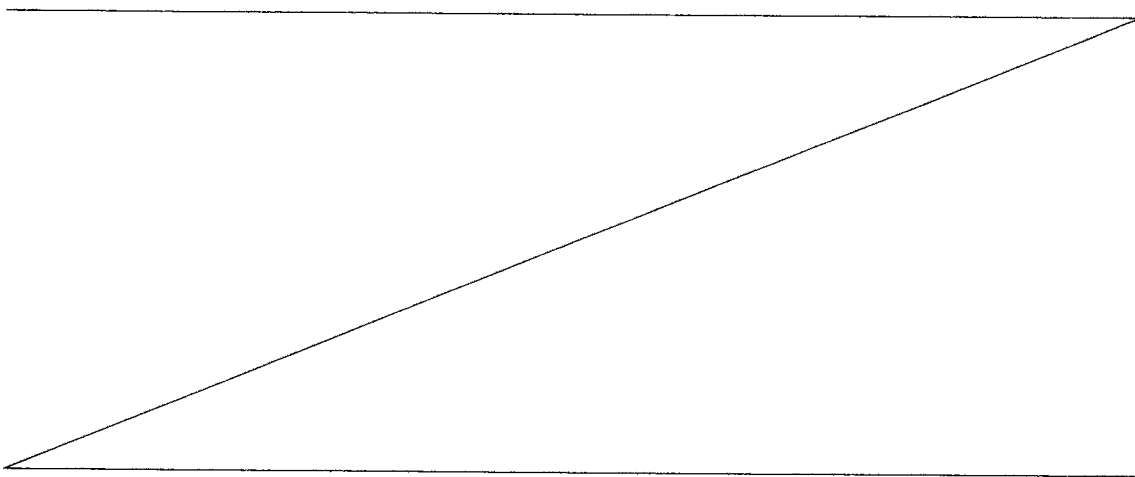
22. The Government is vicariously liable to Mrs. Lewis for her injuries and related damages.

G. THIRD CLAIM FOR RELIEF

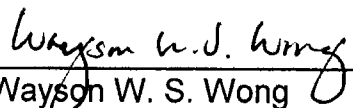
23. Mrs. Lewis realleges paragraphs 1 – 13, 15 – 16 and 19 – 22 of this First Amended Complaint.

24. The doctrine of *res ipsa loquitur* is applicable to this case because the act(s) and/or omission(s) that produced Mrs. Lewis' injuries was or were under the control and management of the Government and one or more of its employees or agents, and the occurrence is such as in the ordinary course of events does not happen if due care has been exercised.

Accordingly, Mrs. Lewis requests that this Court give her judgment in her favor and against the Government for her special and general damages in an amount to be proven at trial, together with her costs and such other and further relief that this Court deems appropriate.



Dated: Hagatna, Guam, August 12, 2005.



Wayson W. S. Wong
Attorney for Plaintiff

First Amended Complaint, Lewis v. United States of America, District Court of
Guam, Civ. No. 05-00026